

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.**

CWP NO.1278 Of 2006.

Date of decision: December 1, 2006.

Anita Devi and Others. Petitioners.

Vs.

State of H.P. and others. Respondents.

Coram

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice S.S.Thakur, Judge.

Whether approved for reporting?

For the petitioners: Mr. Ajay Sharma, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with
Mr. R.M.Bisht, Dy.A.G. for respondents 1 to 3.

Mr. Ajay Mohan Goel, Advocate, for respondent
No.4.

Mr. Dalip Sharma, Advocate, for respondent No.7.

None for other respondents.

S.S. Thakur, J (Oral):

The instant petition has been filed by the petitioners challenging the order of the learned H.P. State Administrative Tribunal, passed on 4.7.2005 in O.A. No.1876 of 2005, whereby the original application filed by the petitioners has been dismissed.

The original application was filed by the petitioners to quash and set-aside the appointment of the respondents No.4 to 9 as Dais (midwives) being contrary to policy decision of the State Government and consider the petitioners for the appointment as Dais as per the decision of the

Whether reporters of local Papers may be allowed to see the judgment?

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Government dated 21.1.2000 (Annexure P-7), letters dated 2.12.1998 and 21.6.1999, Annexures P-1 and P-2 respectively.

It is strenuously argued by Mr. Ajay Sharma, learned counsel for the petitioners that training was imparted to 45 Dais and 200 ANMS subject to the conditions as contained in the letter dated 2.12.1998 (Annexure P-1). Though it did not guarantee employment to the petitioners but six month's training course/ made them eligible for being appointed to the said post as their names were registered with the employment exchange(s) and the petitioners were selected after holding an interview for undergoing the said training. On successfully completing the training the petitioners got their names registered with the 'Himachal Pradesh Nurses Registration Council', Shimla. It is argued that there was a complete ban on direct recruitment, thus the Director Health Services sought relaxation to appoint 45 trained Dais which was accorded by the Government vide letter Annexure P-7.

According to Shri Ajay Sharma a perusal of these documents Annexures P-1 and P-7 clearly indicates and shows that the 45 posts of Dais for which approval was given were to be filled up from amongst those Dais who had been selected for and imparted training by the Government. He, therefore, contends that the respondents were bound to give appointment only to 45 Dais and could not have invited applications for filling up the posts of Dais from the open market. Therefore, the appointment of respondents No.4 to 9 is illegal and liable to set-aside

We have carefully heard and examined the contention so raised. Before us, there is no document which substantiates the case of the petitioner that they were assured that they would be given employment after completing the training of Dais. The perusal of Annexure P-1 which is a letter dated 2.12.1998 sent by the Secretary (Health) to the Director of Health Services, only indicates the approval of the Government to impart training to 100 Dais and 200 ANMs (FHWs) in two phases subject to the following conditions:

- 1) "No additional expenditure is involved in the training courses and the Deptt. Will not demand for any additional account of creation of infrastructure for providing training facility.
- 2) The candidates selected for training will not be allowed any stipend during the period of training.
- 3) This concurrence of the Finance Department will not imply a commitment for providing jobs to the trained personnel and as also permission/ concurrence for creation or filling up of vacant posts.
- 4) The training course of Dais will start in 1/99 and 10/99."

Annexure P-2 is another letter dated 21.6.1999 sent by the Director of Health Services to all the Chief Medical Officers in the State which informed the Chief Medical Officers to start six months training course for imparting training for the post of Dais to meet the requirement of the department on the terms and conditions as mentioned therein. The perusal of this letter also does not show that there was any assurance, guarantee or commitment given to provide the job only to the trainees including the petitioners. Even the petitioners do not become automatically eligible for direct appointment by enrolling themselves with 'H.P. Nurses Registration Council' in preference to others, over and above the Recruitment and Promotion Rules meant for the said category. Further vide letter dated 21.1.2000 (Annexure P-7), the Secretary (Health) in reference to the letter dated 1.4.2002 (Annexure P-6) had informed the Director, Health regarding the approval of the State Government for appointing 45 Dais in Health Department, on the condition that the department will ensure the Government of India would reimburse the salary of 45 Dais. But this also does not specifically guarantee the job to the petitioners or trainees who were imparted training as per Annexure P-2

above. Thus, the principles of estoppel and legitimate expectation do not apply to in the present case for filling up the posts of Dais (midwives).

On critical examination of the aforesaid documents, we fail to find that either Annexure P-6 or Annexure P-7 had in any way guaranteed job to the petitioners.

We find that the learned Tribunal has dealt with the matter in the right perspective. There is no error in the order passed by the Tribunal. There is no merit in the petitioner, which is accordingly dismissed.

C.M.P. Nos.2390/2006 & 687/2006.

In view of the dismissal of the main writ petition, both these applications are also dismissed.

(Deepak Gupta)
Judge.

December 1,2006.
(PDS)

(S.S. Thakur)
Judge.